

REMARKS/ARGUMENTS

By the present amendment, claim 49 has been amended for purposes of clarity to set forth what may have been inherent is the claim; namely that the level of propellant is sufficient to pressurize the peroxide composition to a level sufficient to spray the peroxide composition onto a surface to be cleaned. No new matter is added with this amendment. In addition withdrawn claim 114 has been cancelled and new claim 115 has been added to further define to peroxide composition of claim 49 to limit the concentration of the active peroxide in the peroxide composition to a range of about 0.1% - 10% by weight. Support for this amendment is found in paragraph 67 of the application as filed. No new matter has been added to application with this amendment.

In the Office Action, claims 49, 51, 52, 54, and 96-98 have been rejected as being unpatentable over Seglin et al. US Patent No. 3,488,287 (the Seglin et al. '287). This rejection is respectfully traversed.

Seglin et al. '287 discloses a method of producing warm lather for use, for example, in a shaving lather by mixing a hydrogen peroxide solution and a catalyst-containing soap composition wherein the hydrogen peroxide is rapidly decomposed upon mixing with the soap composition prior to dispensing as foam from a dispensing outlet. The hydrogen peroxide solution and soap compositions can be stored in different reservoirs or the same reservoir and are dispensed into a reaction chamber wherein the hydrogen peroxide is decomposed with a catalyst in the soap composition to heat and vaporize the water in the composition to form a warm lather. The resulting heated foam is dispensed through an opening. In the embodiment disclosed in Figure 1, the hydrogen peroxide concentration in the hydrogen peroxide component of the mixture is said to be at least 65% and preferably about 83%. The hydrogen peroxide reservoir and other parts of the dispenser which are in contact with a hydrogen peroxide are said to be constructed of materials which do not cause decomposition of hydrogen peroxide, citing suitable materials as plastic, plastic coated metal, stainless steel and aluminum. In addition, Seglin et al. '287 discloses that aerosol-type dispensers can be used to dispense the hydrogen peroxide solution and soap composition from the hydrogen peroxide and soap reservoirs with the use of a

"nominal amount of a low boiling point propellant such as chlorofluoro hydrocarbons."

Independent Claim 49 and the claims dependent therefrom relate to a cleaning composition wherein a hydrogen peroxide solution is sprayed onto a surface to be cleaned through a dispensing spray outlet onto a surface to be cleaned.

The Seglin et al. ' 287 does not disclose a pressure chamber having a dispensing spray outlet for dispensing controlled amounts of a peroxide composition under pressure from the pressure chamber onto a surface to be cleaned. Further, Seglin et al. ' 287 does not disclose a propellant mixed with the peroxide composition to pressurize the oxidizing composition within a pressure chamber to a level sufficient to spray the peroxide compound onto a surface to be cleaned. Although Seglin et al. ' 287 discloses that an aerosol type of dispenser can be used to dispense a peroxide composition and a "nominal amount of low boiling point propellant" can be used, the peroxide composition in the Seglin et al. ' 287 patent is not dispensed thorough a spray nozzle under pressure but rather is dispensed into a reaction chamber under very low pressure where it reacts with a catalyst to produce foam which then dispensed as a lather. This process does not result in spraying a peroxide composition onto a surface to be cleaned. The peroxide composition is decomposed before it is dispensed from the dispenser and it is not dispensed in any case under pressure onto a surface to be cleaned. It is the gas that forms during the reaction with the hydrogen peroxide that forces the lather through a dispensing opening which is not a dispensing spray outlet. In Applicants invention, the peroxide composition is sprayed through a dispensing spray outlet onto a surface to be cleaned.

In addition, although Seglin et al. ' 287 incidentally discloses that the peroxide composition can be packaged in an aluminum container, there is no example or other disclosure of packaging the peroxide composition in a bare aluminum container. Typically, aluminum aerosol containers are coated with a coating, which Applicant has found causes serious problems with a peroxide composition. It is therefore believed that the incidental disclosure of the use of an aluminum container for hydrogen peroxide composition does not meet the limitation of claim 49 with respect to the inner surface of the pressure chamber formed wholly from uncoated aluminum. Furthermore, the concentration of peroxide in the hydrogen peroxide component of

the two ingredients of the warm lather composition is much too high to be packaged in a bare aluminum container. Concentrations of hydrogen peroxide in aerosol compositions above 10% are not safe in any aerosol container. The concentrations of hydrogen peroxide in the Seglin et al. '287 hydrogen peroxide component are far higher, preferably about 83%. This composition could not be safely packaged in a high pressure aerosol composition. One of ordinary skill in the art of aerosol containers would not believe that the reference to packaging the Seglin et al. '287 hydrogen peroxide composition in a bare aluminum aerosol container is a credible disclosure and would likely believe that it was an unsupported and unsupportable assertion by an attorney who drafted the application for the Seglin et al. '287 patent.

It is therefore submitted that claim 49 and the claims dependent therefrom patentably distinguish over the Seglin et al. '287 patent. Thus, it is believed that Claims 49, 51, 52, 54, and 96-98 patentably distinguish over Seglin et al. '287.

Claims 55 and 56 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Seglin et al. '287 as applied to Claim 49 and further in view of the Hart et al. U.S. Patent No. 3,970,584 (Hart et al. '584 patent). This rejection is respectfully traversed.

The Hart et al. '584 patent is cited to disclose a dip tube made of a thermoplastic material such as an olefin polymer. The alleged combination of Hart et al. '584 patent and Seglin et al. '287 does not meet the deficiencies of the Seglin et al. '287 as set forth above with respect to claim 49. Therefore, claims 55 and 56, which ultimately depend from claim 49, distinguish over the alleged combination of Hart et al. '584 patent and Seglin et al. '287 in the same manner as claim 49.

Claim 57 has been rejected as being unpatentable over Seglin et al. '287 as applied against Claim 49 and further in view of the Miles U.S. Patent No. 3,722,753 (Miles '753). This rejection is respectfully traversed.

The Miles '753 patent is cited to disclose a valve made of nylon. The alleged combination of Miles '753 with Seglin et al. '287 does not need the deficiencies of the Seglin et al. '287 patent with respect to Claim 49. Therefore, claim 57, which depends ultimately from claim 49,

distinguishes over the alleged combination of Miles '753 and Seglin et al. '287 in the same manner as claim 49.

Claims 58 and 59 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Seglin et al. '287 and Miles '753 in view of the Barger et al. U.S. Patent No. 5,421,492 (Barger et al. '492). This rejection is respectfully traversed.

The alleged combination of Seglin et al. '287, Miles '753 and Barger et al. '492 is traversed. There is no basis for the combination. Whereas Miles '753 and Seglin et al. '287 relate to the dispensing of foam, Barger et al. '492 relates to the dispensing of a controlled metered amount of a medical fluid from an aerosol container. The valve arrangement and the purpose of the Barger et al. '492 dispensing apparatus is remarkably different from that of Miles '753 and Seglin et al. '287. It is not seen how the Barger et al. '492 disclosure is related in any significant way to the Miles '753 and Seglin et al. '287 disclosures, other than the disclosure of dispensing of fluids.

In any case, the use of a stainless steel spring as disclosed in the Barger et al. '492 in the Seglin et al. '287 dispensing valve will still not meet the deficiencies of Seglin et al. '287 with respect to claim 49. Because claims 58 and 59 depend ultimately from claim 49, these claims distinguish over the alleged combination of Barger et al. '492 with Miles '753 and Seglin et al. '287 in the same manner as claim 49.

Claim 94 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Seglin et al. '287 and Hart et al. '584 as applied to claim 55 and further in view of the Barger et al. U.S. Patent No. 5,921,447 (Barger et al. '447). This rejection is respectfully traversed.

The alleged combination of Barger et al. '447 with Hart et al. '584 and Seglin et al. '287 is traversed. The Barger et al. '447 patent, like the Barger et al. '492 patent, relates to metered dispensing of medical fluids from an aerosol container whereas the Hart et al. '584 and Seglin et al. '287 relate to dispensing of foam materials. It is believed that these disclosures are unrelated.

However, even if the alleged combination of Seglin et al. '287, Hart et al. '584, and Barger et al. '447 were to be combined, however untenably, it still would not meet Applicants claimed invention. At best, the alleged combination of these references would simply add a

gasket made of ethylene propylene diene terpolymer to the alleged combination of Seglin et al. '287 and Hart et al. '584. This alleged combination would not meet the deficiencies of claim 49 from which claim 94 ultimately depends for all of the same reasons as set forth above with respect to the distinction of claim 49 over the Seglin et al. '287 patent.

Claim 95 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Seglin as applied to claim 49 and further in view of the Spitzer et al. U.S. Patent No. 4,019,657 (Spitzer et al. '657). This rejection is respectfully traversed.

The alleged combination of Seglin et al. '287 with Spitzer et al. '657 is traversed. The Spitzer et al. '657 patent relates to sprays of more conventional nature. Although foaming of an aerosol composition is contemplated, the same kinds of foams as used in the Seglin et al. '287 reference are not used by Spitzer et al. '657. Therefore it is believed that the Spitzer et al. '657 dispenser cannot be tenably combined with the Seglin et al. '287 reference.

However, even if the alleged combination is made as alleged, however untenably, the alleged combination still would not meet Applicants claimed invention. Claim 95 depends from claim 49 and defines over the alleged combination of Spitzer et al. '657 and Seglin et al. '287 in the same manner as claim 49. The alleged combination of these references would simply provide an anodized aluminum container for the peroxide containing container of Seglin et al. Applicants dispute the Examiner's representation that the containers of Spitzer et al. '657 and the containers of Seglin et al. '287 are similar.

Claim 99 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Siegel et al. '287 reference as applied against claim 49 and further in view of the Lauwers et al. U.S. Patent No. 6,021,926 (Lauwers et al. '926). This rejection is respectfully traversed.

The alleged combination of Lauwers et al. '926 and Seglin et al. '287 is traversed. These disclosures relate to remarkably different aerosol packages. Whereas the Lauwers et al. '926 reference relates to an aerosol package which has a relatively high pressure, the Seglin et al. '287 reference relates to a low-pressure container which forms foam and does not have a dispensing spray outlet for dispensing controlled amounts of fluid under pressure from the pressure chamber onto a surface to be cleaned.

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The use of high pressures in the Seglin et al. '287 pressure containers would likely result in an inoperable combination because the soap and hydrogen peroxide compositions would likely be dispensed from the foam opening without dwelling long enough to heat and foam the soap composition. Therefore, it would not be appropriate to pressurize the Seglin et al. '287 containers with the pressures disclosed in Lauwers et al. '926 and the alleged combination of Seglin et al. '287 with Lauwers et al. '926 would not be an obvious combination of references.

New claim 115 depends from claim 49 and further distinguishes over the Seglin et al. '287 reference in that it defines the operative range for the peroxide compound in the peroxide aerosol composition in a aerosol container. Seglin et al. '287 does not contemplate the range set forth in claim 115 and would not use that range of hydrogen peroxide because to do so would render the foam process inoperative in accordance with the teaching of Seglin et al. '287.

In view of the foregoing remarks and amendments, it is submitted that claim 49 and all of the claims dependent therefrom patently define over the prior art references. Early notification of allowability is respectfully requested.

Respectfully submitted,

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